

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Chief Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, September 8, 2021

Hearing Room 302

9:30 AM

1:00-00000

Chapter

#0.00 This calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address: <https://cacb.zoomgov.com/j/1615169932>

Meeting ID: 161 516 9932

Password: 419719

Dial by your location: 1 -669-254-5252 OR 1-646-828-7666

Meeting ID: 161 516 9932

Password: 419719

Docket 0

Matter Notes:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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**United States Bankruptcy Court
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Wednesday, September 8, 2021

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1:17-13285 Angela Jean Garcia

Chapter 13

#1.00 Motion for relief from stay

NEWREZ LLC DBA DBA SHELLPOINT
MORTGAGE SERVICING

fr. 8/11/21

Docket 54

Matter Notes:

- NONE LISTED -

Tentative Ruling:

This matter was continued from 8/11/2021 so that parties could work out an APO. What is the status of the matter?

Appearance Required.

Previous Tentative:

Petition Date: 12/8/2017

Ch. 13 plan confirmed: 11/26/2018

Service: Proper. No opposition filed.

Property: 1934 Lucas St. #3, San Fernando, CA 91340

Property Value: \$322,521 (per debtor's schedules)

Amount Owed: \$246,650

Equity Cushion: 16%

Equity: \$50,069

Post-Petition Delinquency: \$18,896.41 (12 payments of \$1,708.10, less suspense balance of \$1,600.79)

Movant alleges the last payment received was on or about May 17, 2021

Disposition: GRANT under 11 U.S.C. 362(d)(1). GRANT relief requested in paragraphs 2 (proceed under non-bankruptcy law); 3 (Movant permitted to

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CONT... Angela Jean Garcia

Chapter 13

engage in loss mitigation activities); and 7 (waiver of the 4001(a)(3) stay).

NO APPEARANCE REQUIRED—RULING MAY BE MODIFIED AT
HEARING.

MOVANT TO LODGE ORDER WITHIN 7 DAYS THAT SHALL INCLUDE
THE FOLLOWING LANGUAGE:

"Moratoriums not affected. This order does not terminate any moratorium on
evictions, foreclosures or similar relief. Nothing in this order should be
construed as making any findings of fact or conclusions of law regarding the
existence of, or merits of any dispute regarding, any such moratorium."

Party Information

Debtor(s):

Angela Jean Garcia

Represented By
David H Chung

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Nancy L Lee
Jennifer C Wong

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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9:30 AM

1:19-13113 Avetis Dzhigryan

Chapter 13

#2.00 Motion for relief from stay

ATHENE ANNUITY AND LIFE COMPANY

fr. 7/28/21

Docket 44

***** VACATED *** REASON: Vacated per APO.**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

VACATED PER APO

NO APPEARANCE REQUIRED

Party Information

Debtor(s):

Avetis Dzhigryan

Represented By
Aris Artounians

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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10:00 AM

1:21-11170 Maryna Koval

Chapter 13

#3.00 Motion for relief from stay

PORSCHE FINANCIAL SERVICES, INC.

Docket 48

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Movant Porsche Financial Services

Petition Date: 5/26/21

Ch: 13

Service: Proper. Opposition Filed

Property: 2017 Porsche Cayenne

Property Value: \$35,000.00 per Debtor's Schedules (Debtor's Opposition

Claims the value is \$41,466.00)

Amount Owed: \$32,172.05

Equity Cushion: 8%

Equity: \$2,800.00

Delinquency: \$13,355.14 (Monthly payments are \$1,415.87)

Movant seeks relief under 11 U.S.C. 362(d)(1) and (2) under paragraphs 2 (proceed under non-bankruptcy law); 6 (14 day stay waived); 8 (binding and effective in any bankruptcy case against Debtor for 180 days); and 9 (binding against any debtor for a period of 180 days). Movant alleges that it is not adequately protected because payments have not been made. Movant alleges that the last payment received was on or about 11/05/2020. Further, Movant alleges that the bankruptcy case was filed in bad faith.

Debtor opposes the motion arguing that the car is necessary for an effective reorganization. The car is used by her estranged husband. Further, Debtor alleges that the car is community property (between her and her estranged

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CONT... Maryna Koval

Chapter 13

husband) and that there is equity in the car. The community property argument is not supported by credible evidence but the valuation attached suggests that there is an equity cushion of \$9,294 - meaning the value listed on Debtor's schedules is incorrect.

The problem here is the marital status and living arrangement between the Debtor her husband. Debtor's spouse was a co-debtor in this case until the Court dismissed him because it imposed a 180-day bar on him for refiling. It was represented to the Court in the OSC that the Debtor and her husband were not living together and that the husband was living and working in San Diego. From the Debtor's own declaration it appears the husband is the only one using the car. His use of the car is not necessary or effective for the Debtor to proceed in her own bankruptcy. There is some equity in the car and parties are encouraged to discuss an APO, but the Property is not necessary for an effective reorganization of the Debtor.

Disposition: GRANT under 11 U.S.C. 362(d)(1) and (d)(2). GRANT relief requested in paragraph 2 (proceed under non-bankruptcy law); 6 (14 day stay waived); 8 (binding and effective in any bankruptcy case against Debtor for 180 days); and 9 (binding against any debtor for a period of 180 days). The Court makes no finding as to bad faith.

APPEARANCE REQUIRED

Party Information

Joint Debtor(s):

Maryna Koval

Represented By
Steven R Houbeck

Movant(s):

Porsche Financial Services, Inc.

Represented By
Stacey Miller
Stacey A Miller

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:21-11267 Sam Khaledi

Chapter 7

#4.00 Motion for relief from stay

DAIMLER TRUST

Docket 9

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Petition Date: 7/28/21

Ch: 7

Service: Proper. No opposition filed.

Property: 2017 Mercedes-Benz C300W

Property Value: Not on Debtor's Schedules

Amount Owed: \$28,132.59

Equity Cushion: n/a

Equity: n/a (LEASE)

Delinquency: \$28,132.59

Movant alleges that the last payment received was on or about N/A

Disposition: GRANT under 11 U.S.C. 362(d)(1) and (d)(2). GRANT relief requested in paragraph 2 (proceed under applicable non-bankruptcy law) and 6 (waiver of 4001(a)(3) stay).

NO APPEARANCE REQUIRED—RULING MAY BE MODIFIED AT HEARING.

MOVANT TO LODGE ORDER WITHIN 7 DAYS.

Party Information

Debtor(s):

Sam Khaledi

Represented By
Michael Callon

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CONT... Sam Khaledi

Chapter 7

Movant(s):

Daimler Trust

Represented By
Sheryl K Ith

Trustee(s):

Amy L Goldman (TR)

Pro Se

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10:00 AM

1:21-11379 Digna Soriano Gallagher

Chapter 13

#4.01 Motion in Individual Case for Order Imposing
a Stay or Continuing the Automatic Stay as the
Court Deems Appropriate Personal Property

Docket 11

Matter Notes:

- NONE LISTED -

Tentative Ruling:

On 8/13/2021, Debtor filed this chapter 13 case. Debtor had previous bankruptcy case that was dismissed within the previous year. The First Filing, 19-11427-MT, was a chapter 13 that was filed on 10/14/2019 and dismissed on 4/29/2021 for failure to make plan payments.

Debtor now moves for an order continuing the automatic stay as to all creditors. Debtor argues that the present case was filed in good faith notwithstanding the dismissal of the previous case for failure to make plan payments because she fell behind on plan payments and was unable to modify her plan or cure the delinquency due to a temporary loss of income resulting from illness. Debtor is a nurse that volunteered to travel around other states that were facing significant nursing shortages. This travel combined with long hours resulted in the Debtor becoming ill and temporarily losing income. Debtor is back to work full time and financial circumstances have improved. Debtor claims that the property is necessary for a successful reorganization because this is his family's primary residence.

Service proper. No opposition filed.

MOTION GRANTED. RULING MAY BE MODIFIED AT HEARING.
APPEARANCE REQUIRED DUE TO SHORTENED TIME.

Party Information

Debtor(s):

Digna Soriano Gallagher

Represented By

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CONT... Digna Soriano Gallagher

Peter M Lively

Chapter 13

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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Hearing Room 302

10:00 AM

1:21-11414 Lecia Kay Westerman

Chapter 13

#4.02 Motion for relief from stay

LECIA KAY WESTERMAN

Docket 7

Matter Notes:

- NONE LISTED -

Tentative Ruling:

On 8/20/2021, Debtor filed this chapter 13 case. Debtor had previous bankruptcy case that was dismissed within the previous year. The First Filing, 19-11427-MT, was a chapter 13 that was filed on 6/07/2019 and dismissed on 2/03/2021 for failure to make plan payments.

Debtor now moves for an order continuing the automatic stay as to all creditors. Debtor argues that the present case was filed in good faith notwithstanding the dismissal of the previous case for failure to make plan payments because he lost work during the COVID-19 pandemic. Debtor is a self-employed in the real estate market. Debtor claims that there has been a substantial change in her financial affairs. Debtor has been able to close more homes since the uptick in the real estate market and her son moved in providing her with additional rental income. Debtor claims that the property is necessary for a successful reorganization because this is his family's primary residence.

Service proper. No opposition filed.

MOTION GRANTED. RULING MAY BE MODIFIED AT HEARING.
APPEARANCE REQUIRED DUE TO SHORTENED TIME.

Party Information

Debtor(s):

Lecia Kay Westerman

Represented By
Kevin T Simon

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CONT... Lecia Kay Westerman

Chapter 13

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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10:30 AM

1:20-11366 Steven E. Hertler and Temma L. Hertler

Chapter 7

#5.00 Trustee's Final Report and Application for
Compensation and Deadline to Object

TRUSTEE:
David K. Gottlieb

Docket 28

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Service proper. No opposition filed. Having reviewed the Trustee's Final Report, the Court finds that the fees and costs are reasonable and are approved as requested.

APPEARANCES WAIVED ON 9-8-2021.

Party Information

Debtor(s):

Steven E. Hertler

Represented By
Peter T Steinberg

Joint Debtor(s):

Temma L. Hertler

Represented By
Peter T Steinberg

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

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10:30 AM

1:21-11313 Harbour Community, L.P., a California limited part

Chapter 11

#6.00 Order Setting Hearing on Status of Chapter 11, Subchapter V Case

Docket 0

***** VACATED *** REASON: Order Cont. to 9/22/21 @10:30am (eg)**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Order Cont. to 9/22/21 @10:30am. No Appearance Required

Party Information

Debtor(s):

Harbour Community, L.P., a

Represented By
Andrew Goodman

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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10:30 AM

1:21-10992 Osnat Bentov

Chapter 13

- #6.01** Motion for Authority to Obtain Credit Under Section 364(b), Rule 4001(c) or (d) (1) Authorizing debtor to obtain postpetition financing of her real property (6200 Corbin Avenue, Tarzana, California 91356 PURSUANT TO 11 U.S.C. §§363 AND 364;
(2) Granting lien to postpetition lender pursuant to 11 U.S.C. §364 and (3) Authorizing payment of secured debt

Docket 31

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Debtor seeks authorization to transfer of title to real property at 6200 Corbin Avenue, Tarzana, California 91356 ("Property") to her husband for purposes of refinancing . Debtor was unsuccessful in trying to enter into a loan modification. The husband is not in bankruptcy and has good credit. No money will be taken out from the refinance. Only creditors that will be paid will be the secured creditors. The purpose of the post-petition financing is to refinance the outstanding loan with US Bank and the Franchise Tax Board and local taxes. After the completion of the refinance, the Debtor will be in a position to pay either dismiss the case or propose an amended plan to pay her unsecured debts. After the refinance, the Debtor will be added back to title. Debtor requests and order to obtain post-petition financing and to create a lien on behalf of the new lender.

Terms of loan:

Loan Amount \$1,200,00

Term: 30 Years fixed

Interest: Approximately 4.75%

Section 363(b) (1) provides that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate."

Bankruptcy courts typically review a transaction proposed under section

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CONT... Osnat Bentov

Chapter 13

363(b)(1) using a "business judgment" standard. See e.g., *In re Equity Funding Corp. of Am.*, 519 F.2d 1274, 1277 (9th Cir. 1975); see also *In re Claar Cellars LLC*, 2020 Bankr. LEXIS 682 (Bankr. E.D. Wash 2020). This is a "deferential" standard pursuant to which a "bankruptcy court will generally approve" a reasoned decision by the debtor. *Mission Prod. Holdings v. Tempnology, LLC* 139 S.Ct. 1652, 1658 (2019). When the transaction involves or will benefit an "insider" of the debtor, however, bankruptcy courts must apply a heightened level of scrutiny to ensure the insider is not improperly benefiting from its control, access, or familiarity at the expense of outside stakeholders. *Claar Cellars* at *8.

Section 364(c)(2) provides: "the court after notice and a hearing, may authorize the obtaining of credit or incurring of debt... (2) secured by a lien on property of the estate that is not otherwise subject to a lien." 11 USC 364(c) (2). The caveat is that they must not have been able to secure an unsecured loan.

Here, refinance appears to be the best interest of all parties. The Debtor has not been able to otherwise modify or otherwise secure funding. The Debtor's business judgment here is sound and in the best interest of the bankruptcy estate.

The motion is GRANTED.

Appearance Required due to this motion being set on shortened time.

Party Information

Debtor(s):

Osnat Bentov

Represented By
Stella A Havkin

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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11:00 AM

1:16-11671 Yoram Talasazan

Chapter 7

Adv#: 1:16-01119 Moussighi et al v. Talasazan

#7.00 Post-Trial Status Conference

fr. 6/2/21, 7/7/21

Docket 1

***** VACATED *** REASON: Order entered cont. to 10/20/21 @11am**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Order entered cont. to 10/20/21 @11am. No Apperance Required.

Party Information

Debtor(s):

Yoram Talasazan

Represented By
Raymond H. Aver

Defendant(s):

Yoram Talasazan

Represented By
Raymond H. Aver

Plaintiff(s):

Moeir Moussighi

Represented By
Ashkan Ashour

Hanrit Moussighi

Represented By
Ashkan Ashour

Moeir and Hanrit Moussighi dba

Represented By
Ashkan Ashour
Raymond H. Aver

Trustee(s):

Nancy J Zamora (TR)

Pro Se

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CONT... Yoram Talasazan

Chapter 7

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11:00 AM

1:18-12698 Green Nation Direct, Corporation

Chapter 7

Adv#: 1:20-01089 Zamora, Chapter 7 Trustee v. Hernandez

#8.00 Status Conference Re Complaint to Avoid
and Recover Post-Petition Transfers and
Fraudulent Transfers; to Preserve Avoided
and Recovered Transfers for Benefit of
the Bankruptcy Estate: Disallowance of
Claim No. 39

fr. 1/6/21

Docket 1

***** VACATED *** REASON: VACATED PER STIP. Continued to
11/10/2021 at 11:00am.**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

VACATED PER STIP. Continued to 11/10/2021 at 11:00am.
No Appearance Required.

Party Information

Debtor(s):

Green Nation Direct, Corporation Pro Se

Defendant(s):

Jorge Hernandez Pro Se

Plaintiff(s):

Nancy J Zamora, Chapter 7 Trustee	Represented By
	Richard P Steelman Jr
	Jeffrey S Kwong
	Edward M Wolkowitz

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CONT... Green Nation Direct, Corporation

Chapter 7

Trustee(s):

Nancy J Zamora (TR)

Represented By

Jeffrey S Kwong

Edward M Wolkowitz

Richard P Steelman Jr

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1:19-12102 Hawkeye Entertainment, LLC

Chapter 11

#9.00 Motion of Debtor and Debtor-in-Possession
for an Order Pursuant to Section 364(c) of the
Bankruptcy Code Authorizing the Debtor to
Obtain Post-Petition Financing on a Permanent
Basis

fr. 6/9/21; 7/28/21

Docket 327

Matter Notes:

- NONE LISTED -

Tentative Ruling:

On June 16, 2021, the Court entered an order approving post-petition financing for the Debtor on an interim basis and set the final hearing for July 28, 2021. The Court continued the hearing on July 28, 2021, because the final documents had not come in. What is the status of final documents?

Appearance Required.

Party Information

Debtor(s):

Hawkeye Entertainment, LLC

Represented By
Sandford L. Frey

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11:00 AM

1:20-10069 Shawn Sharon Melamed

Chapter 7

Adv#: 1:20-01046 Mazakoda, Inc. v. Melamed et al

#10.00 Pre-trial conference re: complaint objecting to discharge pursuant to 11 U.S.C. sec 727(3)(3), 727(a)(4)(A); 727(a)(4)(D). and 727(a)(5)

fr. 6/17/20; 7/8/20; 7/15/20, 8/19/20; 4/14/21; 7/28/21

Docket 1

Matter Notes:

- NONE LISTED -

Tentative Ruling:

No status report filed. At the last hearing the parties indicated at the last hearing they were waiting for the outcome of the other adversary in order to determine how to proceed. Accordingly, the Court finds cause to continue the s/c to 9/29/2021 at 11:00am.

No Appearance Required on 9/8/2021.

Party Information

Debtor(s):

Shawn Sharon Melamed

Represented By
Giovanni Orantes

Defendant(s):

Shawn Sharon Melamed

Pro Se

Jenous Tootian

Pro Se

Joint Debtor(s):

Jenous Tootian

Represented By
Giovanni Orantes

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CONT... Shawn Sharon Melamed

Chapter 7

Plaintiff(s):

Mazakoda, Inc.

Represented By
Scott E Gizer

Trustee(s):

Amy L Goldman (TR)

Represented By
Scott E Gizer

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1:20-10324 Rooter Hero San Gabriel, Inc.

Chapter 7

Adv#: 1:21-01032 Weil v. Akhoian et al

#11.00 Status Conference RE: Complaint To:
(1) Avoid and Recover Fraudulent
Transfer; and
(2) To Preserve Recovered Transfer
for Benefit of Debtor's Estate.

Docket 1

***** VACATED *** REASON: VACATED per stipulation continuing s/c to
November 17, 2021 at 11:00am.**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

No Appearance Required. VACATED per stipulation continuing s/c to
November 17, 2021 at 11:00am.

Party Information

Debtor(s):

Rooter Hero San Gabriel, Inc.

Represented By
David S Hagen

Defendant(s):

John Akhoian

Pro Se

Plumber Hero, Inc.

Pro Se

Plaintiff(s):

Diane C. Weil

Represented By
Anthony A Friedman

Trustee(s):

Diane C Weil (TR)

Represented By
Anthony A Friedman

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1:20-10325 RHSF, Inc.

Chapter 7

Adv#: 1:21-01034 Weil v. Akhoian et al

#12.00 Status Conference Re:Complaint to:
(1) Avoid and Recover Fraudulent Transfer; and
(2) to Preserve Recovered Transfer for Benefit
of Debtor's Estate [11 U.S.C. § 544 and California
Civil Code § 3439 et. seq. and 11 U.S.C. §§ 548
and 550]

fr. 8/18/21

Docket 1

***** VACATED *** REASON: Cont'd to 10/20/21 at 11:00 per Ord. #9.**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

VACATED per stipulation continuing s/c to November 17, 2021 at 11:00am.
No Appearance Required.

Party Information

Debtor(s):

RHSF, Inc.

Represented By
David S Hagen

Defendant(s):

John Akhoian

Pro Se

RH BAS, Inc.

Pro Se

Plaintiff(s):

Diane C. Weil

Represented By
Anthony A Friedman

Trustee(s):

Diane C Weil (TR)

Represented By

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CONT...

RHSF, Inc.

Anthony A Friedman

Chapter 7

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1:20-10326 Rooter Hero 9, Inc.

Chapter 7

Adv#: 1:21-01033 Weil v. Akhoian et al

#13.00 Status conference Re: Complaint to:
(1) Avoid and Recover Fraudulent Transfer;
and
(2) To Preserve Recovered Transfer for
Benefit of Debtor's Estate

Docket 1

***** VACATED *** REASON: Vacated per stip. Contd to 11/17/21 at
11:00am**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

VACATED per stipulation continuing s/c to November 17, 2021 at 11:00am.

Party Information

Debtor(s):

Rooter Hero 9, Inc.

Represented By
David S Hagen

Defendant(s):

John Akhoian

Pro Se

Plumber Hero, Inc.

Pro Se

Plaintiff(s):

Diane C. Weil

Represented By
Anthony A Friedman

Trustee(s):

Diane C Weil (TR)

Represented By
Anthony A Friedman

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1:20-10327 Rooter Hero of Ventura, LLC

Chapter 7

Adv#: 1:21-01030 Goldman v. Akhoian et al

#14.00 Status Conference RE: Complaint To:
(1) Avoid and Recover Fraudulent
Transfer; and
(2) To Preserve Recovered Transfer
for Benefit of Debtor's Estate

Docket 1

***** VACATED *** REASON: Continued by stip to 10/20/21 at 11:00 am -
jc**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

No Apperance Required.

Party Information

Debtor(s):

Rooter Hero of Ventura, LLC

Represented By
David S Hagen

Defendant(s):

John Akhoian

Pro Se

RH LAN, Inc.

Pro Se

Plaintiff(s):

Amy L. Goldman

Represented By
Anthony A Friedman

Trustee(s):

Amy L Goldman (TR)

Represented By
Anthony A Friedman

Diane C Weil

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Chief Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, September 8, 2021

Hearing Room 302

11:00 AM

1:20-10328 RHSFND

Chapter 7

Adv#: 1:21-01031 Goldman v. Akhoian et al

#15.00 Status Conference RE: Complaint To:
(1) Avoid and Recover Fraudulent
Transfer; and
(2) To Preserve Recovered
Transfer for the Benefit of Debtor's
Estate.

Docket 1

***** VACATED *** REASON: Continued by stip to 10/20/21 at 11:00 am -
jc**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

No Apperance Required

Party Information

Debtor(s):

RHSFND

Represented By
David S Hagen

Defendant(s):

John Akhoian

Pro Se

RH LAN, Inc.

Pro Se

Plaintiff(s):

Amy L. Goldman

Represented By
Anthony A Friedman

Trustee(s):

Amy L Goldman (TR)

Represented By
Anthony A Friedman

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Chief Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, September 8, 2021

Hearing Room 302

11:00 AM

CONT... RHSFND

Chapter 7

Diane C Weil

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Chief Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, September 8, 2021

Hearing Room 302

11:00 AM

1:20-10577 Rooter Hero Plumbing, Inc.

Chapter 7

Adv#: 1:21-01035 Goldman v. RH Orange, Inc. et al

#16.00 Status Conference Re: Complaint to:
 (1) Avoid and Recover Fraudulent Transfers;
 (2) Avoid and Recover Post-Petition Transfers;
 (3) to Preserve Recovered Transfers for Benefit
 of Debtors Estate;
 (4) Permanent Injunction;
 (5) Trademark Infringement; and
 (6) Turnover of Property of the Estate

fr. 8/18/21

Docket 1

***** VACATED *** REASON: Continued by stip to 10/20/21 at 11:00 am -
jc**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

No Apperance Required

Party Information

Debtor(s):

Rooter Hero Plumbing, Inc.

Represented By
David S Hagen

Defendant(s):

RH Orange, Inc.

Pro Se

Call Pro's, Inc.

Pro Se

John Akhoian

Pro Se

RH BAS, Inc.

Pro Se

RH LAN, Inc.

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Courtroom 302 Calendar**

Wednesday, September 8, 2021

Hearing Room 302

11:00 AM

CONT... Rooter Hero Plumbing, Inc.

Chapter 7

Plumber Hero, Inc.

Pro Se

Plaintiff(s):

Amy L. Goldman

Represented By
Anthony A Friedman

Trustee(s):

Amy L Goldman (TR)

Represented By
Anthony A Friedman

Diane C. Weil

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Wednesday, September 8, 2021

Hearing Room 302

11:00 AM

1:20-10577 Rooter Hero Plumbing, Inc.

Chapter 7

Adv#: 1:21-01035 Goldman v. RH Orange, Inc. et al

#17.00 Motion of Chapter 7 Trustee for Preliminary
Injunction

fr. 6/24/21, 8/18/21

Docket 2

*** VACATED *** REASON: Continued by stip to 10/20/21 at 11:00 am -
jc

Matter Notes:

- NONE LISTED -

Tentative Ruling:

No Apperance Required.

Party Information

Debtor(s):

Rooter Hero Plumbing, Inc.

Represented By
David S Hagen

Defendant(s):

RH Orange, Inc.

Pro Se

Call Pro's, Inc.

Pro Se

John Akhoian

Pro Se

RH BAS, Inc.

Pro Se

RH LAN, Inc.

Pro Se

Plumber Hero, Inc.

Pro Se

Plaintiff(s):

Amy L. Goldman

Represented By
Anthony A Friedman

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Chief Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, September 8, 2021

Hearing Room 302

11:00 AM

CONT... Rooter Hero Plumbing, Inc.

Chapter 7

Trustee(s):

Amy L Goldman (TR)

Represented By
Anthony A Friedman

Diane C. Weil

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Chief Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, September 8, 2021

Hearing Room 302

11:00 AM

1:20-11099 Arthur Martiryan

Chapter 7

Adv#: 1:20-01121 JPMORGAN CHASE BANK, N.A. v. Martiryan

#18.00 Status Conference Re: Complaint for
Determination of Dischargeability of Debt
Under 11 U.S.C. Sec. 523

fr. 2/17/21, 3/31/21, 5/19/21, 6/30/21; 8/4/21

Docket 1

Matter Notes:

- NONE LISTED -

Tentative Ruling:

The 8/31/2021 status report indicates that settlement has fallen through and the plaintiff wishes to continue with entering a default judgment. Plaintiff requests to continue the s/c for thirty days to allow Plaintiff to complete its Motion for a Default Judgment. The Court finds cause to continue the s/c to October 20, 2021 at 11:00am .

No Appearance required on 9/8/2021

Party Information

Debtor(s):

Arthur Martiryan	Pro Se
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Defendant(s):

Arthur Martiryan	Pro Se
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Plaintiff(s):

JPMORGAN CHASE BANK, N.A.	Represented By Jillian A Benbow
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Trustee(s):

Diane C Weil (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
San Fernando Valley
Chief Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, September 8, 2021

Hearing Room 302

11:00 AM

1:21-10293 PB 6 LLC

Chapter 11

#19.00 Chapter 11 Case Mgmt Conference

fr. 4/7/21

Docket 0

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Hearing on Debtor's disclosure statement is set for October 20, 2021, at 10:30am. The Court finds cause to continue the s/c to October 20, 2021, at 10:30am.

No Appearance Required.

Party Information

Debtor(s):

PB 6 LLC

Represented By
Jeffrey S Shinbrot

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Chief Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, September 8, 2021

Hearing Room 302

11:00 AM

1:21-10554 Elsa V. Ramirez

Chapter 7

Adv#: 1:21-01040 Upstream Capital Investments LLC v. Ramirez

#20.00 Status Conference Re: Complaint Seeking
Non-Dischargeability of Debt in Core
Adversary Proceedings.

Docket 1

Matter Notes:

- NONE LISTED -

Tentative Ruling:

The Court moved the s/c to 11/10/2021 at the hearing on the motion to dismiss.

Continued to 11/10/2021 at 11:00 a.m.

No Appearance Required on 9/8/21.

Party Information

Debtor(s):

Elsa V. Ramirez

Represented By
Ahren A Tiller

Defendant(s):

Elsa V. Ramirez

Pro Se

Plaintiff(s):

Upstream Capital Investments LLC

Represented By
Lynda E Jacobs

Trustee(s):

Diane C Weil (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Courtroom 302 Calendar**

Wednesday, September 8, 2021

Hearing Room 302

11:00 AM

1:18-12377 Reynaldo VILLANUEVA

Chapter 13

#20.01 Order Requiring Debtor Reynaldo Villanueva
Appear and Explain Why He Filed the Motion
to Reconsider Order Granting Relief from Stay

Docket 73

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Appearance Required.

Party Information

Debtor(s):

Reynaldo VILLANUEVA

Represented By
R Grace Rodriguez

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Chief Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, September 8, 2021

Hearing Room 302

1:00 PM

1:19-12434 Walter Ernesto Aleman Olmedo

Chapter 7

Adv#: 1:20-01049 Goldman v. Aleman et al

#21.00 Plaintiff's Motion For Summary Judgment

Docket 42

***** VACATED *** REASON: VACATED PER STIPULATION**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

VACATED PER STIPULATION

No Appearance Required.

Party Information

Debtor(s):

Walter Ernesto Aleman Olmedo

Represented By
Navid Kohan

Defendant(s):

Oscar Aleman

Represented By
Mykhal N Ofili

Marisol Vega Aleman

Represented By
Mykhal N Ofili

Aleman Signs, Inc.

Represented By
Mykhal N Ofili

Plaintiff(s):

Amy L Goldman

Represented By
Leonard Pena

Trustee(s):

Amy L Goldman (TR)

Represented By

**United States Bankruptcy Court
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Wednesday, September 8, 2021

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CONT...

Walter Ernesto Aleman Olmedo

Leonard Pena

Chapter 7

**United States Bankruptcy Court
Central District of California
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Chief Judge Maureen Tighe, Presiding
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Wednesday, September 8, 2021

Hearing Room 302

1:00 PM

1:19-12434 Walter Ernesto Aleman Olmedo

Chapter 7

Adv#: 1:20-01049 Goldman v. Aleman et al

#22.00 Status Conference Re: Trustee's First Amended
Compliant for:
1 - Avoidance of Actual Fraudulent Transfer
(11 U.S.C. Sec. 548(a)(1)(A));
2 - Avoidance of Constructive Fraudulent
Transfer Sec. 548(a)(1)(B);
3 - Avoidance of Actual Fraudulent Transfer
Under Applicable California Law (Cal. Civ.
Code Sections 3439.04(a)(1) and 3439.07 and
11 USC Sec. 544(b));
4 - Avoidance of Constructive Fraudulent
Transfer Under Applicable California Law (Cal.
Civ. Code Sections 3439.05 and 3439.07 and
11 USC Sec. 544(b));
5 - Recovery of Avoided Transfer (11 USC Sec.
550(a)); and
6 - Preservation of Avoided Transfer (11 USC
Sec. 551)

fr. 7/15/20 (stip), 9/9/20, 12/2/20; 2/3/21, 2/10/21,
7/7/21; 8/4/21

Docket 15

***** VACATED *** REASON: VACATED PER STIPULATION**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

VACATED PER STIPULATION

No Appearance Required.

Party Information

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1:00 PM

CONT... Walter Ernesto Aleman Olmedo

Chapter 7

Debtor(s):

Walter Ernesto Aleman Olmedo

Represented By
Navid Kohan

Defendant(s):

Oscar Aleman

Pro Se

Marisol Vega Aleman

Pro Se

Aleman Signs, Inc.

Pro Se

Plaintiff(s):

Amy L Goldman

Represented By
Leonard Pena

Trustee(s):

Amy L Goldman (TR)

Represented By
Leonard Pena

**United States Bankruptcy Court
Central District of California
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Chief Judge Maureen Tighe, Presiding
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Wednesday, September 8, 2021

Hearing Room 302

1:00 PM

1:21-10079 Ara Eric Hunanyan

Chapter 7

Adv#: 1:21-01036 Hunanyan v. Meguerian et al

#23.00 Motion to Dismiss Plaintiff's First Amended
Complaint Pursuant to Federal Rule of Civil
Procedure Rule 12(b)(6) and Federal Bankruptcy
Rule 7012(b). .

Docket 9

Matter Notes:

- NONE LISTED -

Tentative Ruling:

On January 19, 2021, Ara Eric Hunanyan ("Plaintiff") filed a chapter 7 bankruptcy case. See Case # 1:21-bk-10079-MT. Prior to commencing this case, the Plaintiff was involved in a lengthy and contentious dissolution of marriage case with his former spouse Ana Kokikian in the California State Court. While the dissolution matter was pending Kokikian passed away. The dissolution of marriage case proceeded in order to divide property between the Plaintiff and the Probate Estate of Hunanyan. On August 17, 2020, a judgment was entered in the dissolution matter. The judgment made findings as it pertains real properties, specifically requiring the properties to be sold and how the proceeds will be disbursed. Prior to filing his bankruptcy petition the Plaintiff filed an appeal in the state court. When the Plaintiff filed for bankruptcy under chapter 7 of the bankruptcy code, the appeal was taken over by the Chapter 7 Trustee.

The Court approved a compromise between the Chapter 7 Trustee and the Probate Estate of Kokikian to essentially resolve the outstanding appeal and effectuate the sale of the remaining properties in accordance with the state court judgment. After the Court approved the compromise the Plaintiff commenced this adversary proceeding against Hovik and Lucy Meguerian (personal representatives for the Probate Estate of Kokikian) ("Defendant") and Lisa Rosenthal. The Plaintiff amended the complaint to drop Lisa Rosenthal as a named defendant and amended the causes of action. The causes of action in the amended complaint are: 1) objection to proof of claim #4, 2) determination of dischargability of debt, and 3) avoidance of lien on

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CONT... **Ara Eric Hunanyan**
Sherman Way Property.

Chapter 7

The Defendants filed a motion to dismiss and the Plaintiff opposes.

Standard:

A motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure, made applicable to this proceeding by Rule 7012(b) of the Federal Rules of Bankruptcy Procedure, challenges the sufficiency of the allegations set forth in the complaint. The complaint must contain a "short and plain statement of the claim," which shows that the plaintiff is entitled to relief. Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007) (citation omitted).

A dismissal under Rule 12(b)(6) may be appropriate when the complaint lacks a "cognizable legal theory" or "sufficient facts alleged under a cognizable legal theory." Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1988) (citation omitted).

The Court must construe the complaint in the light most favorable to the plaintiff and accept all well-pleaded factual allegations as true. Johnson v. Riverside Healthcare Sys., 534 F.3d 1116, 1122 (9th Cir. 2008) (citation omitted). However, the Court is not bound by conclusory statements, statements of law, or unwarranted inferences cast as factual allegations. Twombly, 550 U.S. at 555; Clegg v. Cult Awareness Network, 18 F.3d 752, 754-55 (9th Cir. 1994) (citations omitted).

Although "detailed factual allegations" are not required, a plaintiff must provide more than mere "labels and conclusions" or "formulaic recitation[s] of the elements of a cause of action" in order to provide grounds for relief. Twombly, 550 U.S. at 555 (2007) (citations omitted). Rather, a complaint "must contain either direct or inferential allegations respecting all the material elements necessary to sustain recovery under *some* viable legal theory." Id. at 562 (emphasis in original) (citations omitted).

In Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), the Supreme Court elaborated on the Twombly standard: "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on

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CONT...

Ara Eric Hunanyan

Chapter 7

its face." (internal quotation marks and citations omitted). Facial plausibility exists when the plaintiff includes "factual content that allows the court to draw [a] reasonable inference that the defendant is liable for the misconduct alleged." Id. (citations omitted).

Under the Twombly and Iqbal standard, courts may use a two-pronged approach. First, courts should identify pleadings which are no more than "legal conclusion[s]" and therefore "not entitled to the assumption of truth." Id. at 680. (internal quotation marks and citations omitted). Legal conclusions must be supported by factual allegations. Id. at 678. Second, courts should determine whether the complaint's factual allegations "plausibly suggest an entitlement to relief," assuming the veracity of the well-pled factual allegations. Id. at 681.

When considering a 12(b)(6) motion to dismiss, the Court generally may not consider material beyond the pleadings, Fort Vancouver Plywood Co. v. United States, 747 F.2d 547, 552 (9th Cir.1984), unless properly submitted with the complaint. Amfac Mortg. Corp. v. Ariz. Mall of Tempe, Inc., 583 F.2d 426, 429-30 (9th Cir.1978). The Court may consider "allegations contained in the pleadings, exhibits attached to the complaint, and matters properly subject to judicial notice." Swartz v. KPMG LLP, 476 F.3d 756, 763 (9th Cir. 2007) (citation omitted).

The Defendants argue that the Plaintiff has failed to state a claim as to the objection to proof of claim cause of action, that the state court has ruled on the other causes of action, and the Plaintiff should be sanctioned for filing this adversary proceeding. Plaintiff alleges that the motion to dismiss was not served to plaintiff, that the motion to dismiss was not timely filed, and that the motion to dismiss addresses the original complaint and is not responsive to the amended complaint.

Service:

A properly addressed proof of service carries with it a presumption of receipt. See Hagner v. United States, 285 U.S. 427, 430, 76 L. Ed. 861, 52 S. Ct. 417 (1932). A party claiming nonreceipt must overcome the presumption with clear and convincing evidence; a simple denial of receipt is insufficient. See In re Bucknum, 951 F.2d 204, 207 (9th Cir. 1991) (holding "simple affidavit to the contrary"

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CONT... Ara Eric Hunanyan

Chapter 7

insufficient to rebut presumption of receipt).

Here, Plaintiff asserts that he never received notice of the motion. The motion includes a proof of service listing the Plaintiff was served by mail at his home address. It appears to be signed by someone other than the Defendants attorney – likely a support staff member. Proof of service can be signed by paralegals, secretaries or other attorneys of the firm. Nothing prohibits or limits proof of service to the filing attorney. Since there is a valid proof of service the burden is on the Plaintiff to overcome the presumption. The Plaintiff merely alleges that he never received the motion to dismiss which is insufficient under the standard. Accordingly, service of the motion to dismiss was proper. In the end the Plaintiff still received the motion and timely filed a response. If the Plaintiff wants to raise issues that additional time could have allowed him to think of the Court will permit him to raise them at the hearing.

Timeliness of Motion to Dismiss:

A defendant must file a Rule 12(b)(6) motion to dismiss for failure to state a claim before filing a responsive pleading. Elvig v. Calvin Presbyterian Church, 375 F.3d 951, 954 (9th Cir. 2004). The Defendants have not filed a responsive pleading as of yet but the Plaintiff believes the motion to dismiss is untimely because according to FRBP 7015 the time to respond "must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended complaint, whichever is later." The timeframe begins when the parties were served. Based on the docket, the parties were served on June 29, 2021 for the original complaint and July 20, 2021 for the amended complaint. The deadline to file a response was on August 3, 2021. The date the motion to dismiss was filed was August 12, 2021.

The timeline to respond to a complaint enumerated in the Federal Rules of Bankruptcy Procedure relates to when a Plaintiff can seek default. A party that fails to timely file an answer to a complaint risks a default judgment being filed before a responsive pleading is filed. The procedure for seeking default judgment is laid out in FRBP 7055. Defendants filed a motion to dismiss several days after the deadlines imposed on them by the Federal Rules of Bankruptcy Procedure, but the Plaintiff did not seek a default judgment before then. While the Defendants should have filed this motion earlier, the few days of delay does not warrant disregarding the motion to dismiss. See Eitel v. McCool, 782 F.2d 1470, 1472 (9th Cir. 1986) ("Cases should be

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Ara Eric Hunanyan

Chapter 7

decided upon their merits whenever reasonably possible.") There has been no prejudice by the delay, and it would have been an abuse of discretion not to grant leave to file a late motion to dismiss in any case.

Objection to Proof of Claim:

Parties dispute whether an objection to claim is a proper cause of action. This issue is irrelevant because the Plaintiff's objection to claim has already been overruled. During the time frame between the Court approving the compromise between the Chapter 7 Trustee and the Kokikian Probate Estate and the hearing on the Trustee's motion to approve the sale of real property, the Plaintiff filed multiple motions in the main bankruptcy case – including a motion to disallow Kokikian Probate Estate's claim #4. On August 18, 2021, a hearing was held and the Plaintiff's objection to claim was overruled and his motion was denied. There were a few issues with the Plaintiff's position for objecting to the claim, most notably the Rooker-Feldman doctrine prevented the Plaintiff from obtaining relief in this Court.

The Rooker-Feldman doctrine refers to two separate Supreme Court cases, Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923), and District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). In Garduno v. Autovest LLC, 143 F. Supp. 3d 923, 926 (D. Ariz. 2015), the Court explained the Rooker-Feldman doctrine in explicit terms:

Generally, "[t]he *Rooker—Feldman* doctrine forbids a losing party in state court from filing suit in federal district court complaining of an injury caused by a state court judgment, and seeking federal court review and rejection of that judgment." Bell v. City of Boise, 709 F.3d 890, 897 (9th Cir.2013). Applying this general rule consists of two steps. First, a court must determine if one of the claims in the federal case is "a forbidden de facto appeal of a state court decision." *Id.* If one of the claims is not a de facto appeal, the *Rooker—Feldman* inquiry ends and the case may proceed. *Id.* If one of the claims *does* constitute a de facto appeal, the claim constituting that appeal is barred as is any claim "'inextricably intertwined' with the state court judicial decision." *Id.* To be clear, this "inextricably intertwined" test "is not a test to determine whether a claim is a de facto appeal, but is rather a second and distinct step in the *Rooker—Feldman* analysis." *Id.* See also *Moore's Federal Practice* § 133.33[2][e] (explaining *Rooker—Feldman* doctrine bars

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Ara Eric Hunanyan

Chapter 7

any claim that is a "de facto appeal" as well as any inextricably intertwined claim).

Under Rooker—Feldman, a federal court, in this case the Bankruptcy Court, does not have subject matter jurisdiction to hear a direct appeal from the final judgment of a state court. Noel v. Hall, 341 F.3d 1148, 1154 (9th Cir. 2003). Rooker held that "when a losing plaintiff in state court brings a suit in federal district court asserting as legal wrongs the allegedly erroneous legal rulings of the state court and seeks to vacate or set aside the judgment of that court, the federal suit is a forbidden de facto appeal." Id. at 1156. A forbidden de facto appeal exists where the federal plaintiff seeks to bring a direct challenge to the correctness of a state court's decision. Id. at 1161.

The Plaintiff's basis for objecting to the proof of claim #4 is that the dissolution of marriage judgment is void or invalid due to what the Plaintiff's views to be improper actions by the state court regarding Covid-19 protocols at the time of trial. What the Plaintiff is asking to overrule the state court's judgment which violates the Rooker-Feldman doctrine. This is an issue for a state appellate court and cannot be adjudicated in this Court. Accordingly, the first cause of action is dismissed. (Plaintiff is also incorrect on the merits in that the Superior Court had every authority to take action at the time it did.)

Section 523(a)(15)

The Plaintiff's second cause of action seeks to determine the dischargeability of the dissolution of marriage judgment under 11 USC §523(a)(15). The Plaintiff argues that the judgement is dischargeable under section 523(a)(15) because the Defendants are not qualifying persons under the language of this section.

Section 523(a)(15) excepts from discharge any debt:

[T]o a spouse, former spouse, or child of the debtor and not of the kind described in [§ 523(a)(5)] that is **incurred by the debtor in the course of a divorce or separation** or in connection with a separation agreement, divorce decree or other order of a court of record, or a determination made in accordance with State or territorial law by a governmental unit.

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11 U.S.C. § 523(a)(15) (emphasis added).

When read as whole, 11 USCS § 523(a)(15) reflects congressional intent to make certain nonsupport obligations to debtor's spouse, former spouse, or children nondischargeable in bankruptcy; thus, individual who is not spouse, former spouse, or dependent of debtor does not have standing to bring nondischargeability complaint under statute. Ashton v. Dollaga (In re Dollaga), 260 B.R. 493, 2001 Cal. Daily Op. Service 2741, 2001 D.A.R. 3449, 45 Collier Bankr. Cas. 2d (MB) 1537, 2001 Bankr. LEXIS 289 (B.A.P. 9th Cir. Cal. 2001).

The Plaintiff misconstrues the language of section 523(a)(15). While the Plaintiff is right that the Defendants would not be qualifying persons under this section of the code – they are not the former or current spouse and they are not his children – however, this section of the code relates to debts "incurred by the debtor in the course of a divorce...". These are expenses such as attorney fees and court costs that were incurred during a divorce proceeding that are not otherwise provided for in § 523(a)(5). Under the plain language of the code, a judgment with the probate estate of a former spouse does not qualify under this section.

Additionally, the Plaintiff appears to have a misunderstanding of what exactly is a dischargeable debt. The complaint seems to suggest that dischargeable means the Defendants could not collect on that debt – that is not the case. Dischargeable debt is debt that can be eliminated after a person files for bankruptcy and goes through the bankruptcy process. The debtor will no longer be personally liable for the debts and therefore has no legal obligation to pay discharged debt. Generally, Creditors can collect these debts only through the administration of a bankruptcy case. In a chapter 7, which is what the Plaintiff is currently in, a chapter 7 trustee collects all non-exempt assets, liquidates them and disburses funds to the creditors. In the Plaintiff's bankruptcy case, the Chapter 7 Trustee reached a compromise with the Defendants' claim against the bankruptcy estate on how their claim for payment would be paid out. Even if the Court were to reach the merits and find that this debt is dischargeable all that means is that the Defendants could not enforce the judgement after an order for discharge is entered; it does not mean that the Defendants could not collect through the administration of the bankruptcy estate, which seems to be what the Plaintiff believes to be the case. Section 523(a)(15) is not applicable in determining the

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Ara Eric Hunanyan

Chapter 7

dischargability of the judgment and section 523(a)(15) does not afford the type of relief the Plaintiff seeks. Accordingly, the Plaintiff's second cause of action is dismissed.

Lien on Sherman Way Property:

Plaintiff's final cause of action relates to one of the Defendants' liens on real property located at 15920 Sherman Way, #4 Van Nuys, CA, 91406. The Plaintiff alleges that Kokikian executed a lien on the property and gifted it to her son. This cause of action raises the issue of res judicata.

Res judicata, also known as claim preclusion, bars litigation in a subsequent action of any claims that were raised or could have been raised in the prior action. W. Radio Servs. Co. v. Glickman, 123 F.3d 1189, 1192 (9th Cir. 1997). "Res judicata prevents litigation of all grounds for, or defenses to, recovery that were previously available to the parties, regardless of whether they were asserted or determined in the prior proceeding." Brown v. Felsen, 442 U.S. 127, 131, 99 S. Ct. 2205, 60 L. Ed. 2d 767 (1979). Res judicata, "has the dual purpose of protecting litigants from the burden of relitigating an identical issue with the same party or his privy and of promoting judicial economy by preventing needless litigation." Parklane Hosiery Co. v. Shore, 439 U.S. 322, 326, 99 S. Ct. 645, 58 L. Ed. 2d 552 (1979).

Res judicata applies "where: (1) the parties are identical or in privity; (2) the judgment in the prior action was rendered by a court of competent jurisdiction; (3) there was a final judgment on the merits; and (4) the same claim or cause of action was involved in both suits." Rein v. Providian Fin. Corp., 270 F.3d 895, 899 (9th Cir.2001) (citing Owens v. Kaiser Found. Health Plan, Inc., 244 F.3d 708, 713 (9th Cir.2001).

The elements of claim preclusion have been met here. These are the same parties and same claims and causes of action that were involved in the dissolution of marriage action that was adjudicated on its merits. The complaint alleges the Plaintiff raised this issue before the state court judge but claims that it was never actually adjudicated. The complaint does not mention why this claim was never adjudicated though. Whether the claim was adjudicated or not, the time and place to have raised this issue was during the dissolution of marriage action. In that action, the state court rendered judgment on how the real property interests of the parties were to be split

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and how the proceeds of the sale of these properties would be disbursed. The time and place to raise a claim regarding a lien on one of those properties was when the property was divided. To raise this claim now after the state court rendered judgment and ordered the sale of the properties and the apportionment of the proceeds is too late. This lien was necessarily adjudicated as part of that action. Accordingly, res judicata prevents the Plaintiff for asserting the third cause of action.

Sanctions:

Certain prerequisites must be satisfied before sanctions can be awarded under Federal Rule of Bankruptcy Procedure 9011(c). A separate motion for sanctions must be filed, which specifically describes the offending conduct. Fed. R. Bankr. P. 9011(c)(1)(A). The request for sanctions is combined with the Defendants' motion to dismiss and therefore the requirements for seeking sanctions have not been satisfied. The Court denies sanctions.

The Motion to Dismiss is GRANTED without leave to amend. The request for sanctions is DENIED at this time.

Appearance Required.

Party Information

Debtor(s):

Ara Eric Hunanyan

Represented By
Stephen L Burton

Defendant(s):

Hovik Meguerian

Represented By
Lisa Rosenthal

Lucy Meguerian

Represented By
Lisa Rosenthal

Plaintiff(s):

Ara Eric Hunanyan

Pro Se

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Trustee(s):

Nancy J Zamora (TR)

Represented By
Ori S Blumenfeld
Jeremy Faith